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IN THE

Supreme Court of the United States

OCTOBER TERM, 1950

No. 71

INTERNATIONAL WORKERS ORDER and ARTHUR LOWNDES DRAYTON,

Petitioners,

v.

J. HOWARD MCGRATH, Individually and as Attorney General of the United States et al,

---

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION TO TAKE JUDICIAL NOTICE

ALLAN R. ROSENBERG,
Attorney for Petitioners,
Office and Post Office Address,
1741 K Street, N. W.,
Washington, D. C.

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION TO TAKE JUDICIAL NOTICE

Petitioners herein respectfully move this Court to take judicial notice of the attached transcript of a proceeding in the Supreme Court of the State of New York, New York County, Special Term, Part I, entitled, "In the matter of the Application of the People of the State of New York by ALFRED J. BOHLINGER, Superintendent of Insurance of the State of New York, for an order directing him to take possession of the property and to liquidate the business, and dissolving the corporate existence, of the INTERNATIONAL WORKERS ORDER, INC.", Motion No. 165, December 18th, 1950. A certified copy of the transcript of the argument before the New York Court on December 18th, 1950 is attached herein as Exhibit A.

Petitioners respectfully call the attention of the Court to the following statement of the representative of the United States Attorney for the Southern District of New York and the Attorney General of the United States:

> "If Your Honor pleases, I am appearing here as a Special Assistant Attorney General, and as a representative of the Attorney General I merely wish to state that the Department of Justice is cooperating with the Attorney General of the State of New York in this proceeding, and also to state that this organization is on the Attorney General's list as a subversive organization—that is the purpose of my appearance here—and that the Department of Justice will continue to cooperate with Mr. Williams and the Attorney General's office" (pp. 3, 4; Exhibit A attached hereto).

Petitioners move this Court to take judicial notice of the attached transcript insofar as it reports the intervention of the Attorney General of the United States upon the basis of the Attorney General's list of subversive organizations in a state court proceeding seeking liquidation of petitioners, INTERNATIONAL WORKERS ORDER, INC.

Respectfully submitted,

ALLAN R. ROSENBERG,
Attorney for Petitioners,
Office and Post Office Address,
1741 K Street, N. W.,
Washington, D. C.

December 21, 1950.

EXHIBIT A

SUPREME COURT,

NEW YORK COUNTY,

SPECIAL TERM—PART I.

IN RE PEOPLE &C (BOHLINGER) INTERNATIONAL WORKERS ORDER, INC.	Motion No. 165

Room, 300, New York County Courthouse,
Monday, December 18th, 1950.

Present:

HON. HENRY CLAY GREENBERG, *J. S. C.*

APPEARANCES:

PAUL W. WILLIAMS, ESQ., Special Counsel and Special Assistant Attorney General, for the Insurance Department of the State of New York.

RAFAEL H. WEISSMAN, ESQ., Appearing Specially for Respondent.

FRANK DONNER, ESQ., of Counsel.

(After discussion upon the call of the calendar:)

The Court: We will mark this matter submitted, and the opposition to the application will be given until January 8th to submit all papers——

Mr. Weissman: No, Your Honor, I can't submit this; I object to the jurisdiction of this Court. As one of the bases I must prepare a motion to that effect. I want to get a chance to look at these papers. As a matter of fact, on the face of the paper—the order to show cause—Your Honor had no power to make the order.

The Court: If you will only give me a chance to finish, you might not disapprove.

Mr. Weissman: I don't want any submission because I am not appearing in the motion at the moment.

The Court: The motion will be marked "submitted," and the opposition will be given until January 8th to submit any papers which they desire to submit, without prejudice to any of the parties involved and without any appearances as such which would be calculated to give the Court jurisdiction in the premises.

Mr. Weissman: But it is understood that on the adjourned date January 8th, I will have the same freedom of action with respect to the application that I would have had this morning?

The Court: That is right.

Mr. Weissman: Thank you.

The Court: That is agreed to. Is that agreeable to you, Mr. Williams?

Mr. Williams: Yes, Your Honor, that is agreeable to me. Your Honor understands I appear here as Special Counsel for the Insurance Department of the State of New York, as Special Assistant Attorney General, and I am associated here with Mr. Donegan, who is a representative of Mr. Irving Saypol, the United States Attorney, and of the Attorney General of the United States. Since question has been raised as to why he is here, I think Your Honor might ask why he is here.

Mr. Weissman: Do I understand that the other gentlemen are also attorneys of record here with you?

Mr. Williams: Well, they are present. I think Your Honor might inquire.

The Court: Do you have anything to say, Mr. Donegan?

Mr. Donegan: Yes. If Your Honor pleases, I am appearing here as a Special Assistant Attorney General, and as a representative of the Attorney General I merely wish to state that the Department of Justice is co-operating with the Attorney General of the State of New York in this proceeding, and also to state that this organization is on the Attorney General's list as a subversive organization—that is the purpose of my appearance here—and that the Department of Justice will continue to co-operate with Mr. Williams and the Attorney General's office.

Mr. Weissman: This is the most extraordinary thing that ever happened in my life.

Mr. Williams: Now, Your Honor, could we have appearances noted, because there are representatives of other states, too?

The Court: Give your name for the record.

Mr. Weissman: Rafael H. Weissman and Frank Donner, attorneys for the International Workers' Order.

The Court: Are there any others?

Mr. Williams: I do not think that I stated my name, although Your Honor may know me. My name is Paul W. Williams, Special Assistant Attorney General of the State of New York.

The Court: Are there any other appearances, gentlemen?

Mr. Williams: Let me introduce my assistant, Mr. Arthur Amiel, who is associated with me, and Mr. James Henry. They are on my staff. Now, there are other attorneys present, and suppose they step up.

Mr. Weissman: May I, Your Honor, be clear on this, since we are making a record? Are the other gentlemen appearing in this proceeding as representing any parties to this?

The Court: Yes; I understand Mr. Donegan to say he represents the United States Government as a Special Assistant——

Mr. Weissman: Your Honor, I object to that. There is nothing in these proceedings to show that he has any standing here. I don't want to be bothered with him.

The Court: It may well be, but I can't prejudge that, Mr. Weissman.

Mr. Weissman: But you can look at the face of the papers, Your Honor. This is an application by the Superintendent of Insurance, and under the statute the Superintendent of Insurance must present an application, "the Attorney General representing him,"—nobody else in the world.

The Court: I understand.

Mr. Weissman: Am I to be bothered with serving papers on them? I object to any appearance by anybody else. If Your Honor, for your own records, wants to indicate that important people are here, I have no objection, but I will not consider that an appearance.

Mr. Williams: Your Honor, there is nothing prejudicial to the respondents in having appearances noted, nor is this time for argument as to why they are here.

The Court: What do you wish to say?

Mr. Kinsek(?): Your Honor, my name is Robert L. Kinsek, Deputy Attorney General of Pennsylvania. I am here in behalf of the Attorney General of Pennsylvania and wish to state that we also are co-operating with Mr. Williams in this case and assisting wherever possible.

The Court: Yes, sir. Do you have an appearance?

Mr. Foley: Your Honor, I am from Shearman, Sterling & Wright's office, representing the National City Bank.

The Court: All right.

Mr. Williams: They were served with a copy of the order to show cause and the stay. Your Honor understands that the stay enjoins the International Workers' Order from the solicitation of new members, from the underwriting of new insurance, and from the disbursing of any funds or the disposition of any assets, except under the joint control of the Superintendent of Insurance of the State of New York.

I am prepared to defend that stay and ask for its continuance if the issue were raised, but Mr. Weissman has not raised it.

The Court: Are there any other appearances, gentlemen?

(There was no response.)

Mr. Weissman: Then, Your Honor, we will be free to apply from time to time to Your Honor as the presiding judge in this matter?

The Court: Yes; that is right.

Mr. Weissman: In connection with the stay and on the return date?

The Court: That is right.

Mr. Weissman: Thank you.

This is to certify that I have compared the foregoing transcript of minutes with my original stenographic notes and that the same is a true and accurate report of the proceedings therein recorded which were had at Supreme Court, New York County, on Monday, December 18th, 1950, in the above-entitled matter.

Dated New York, N. Y.,
December 21st, 1950.

ALFRED J. PRICE,
Official Stenographer, New York
Supreme Court, Special Term,
Part I, New York County.